

Administrative Rules for Clean River Rewards Stormwater Discount Program

ENB-4.16

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ENVIRONMENTAL SERVICES
CITY OF PORTLAND

working for clean rivers

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These are the administrative rules for the Bureau of Environmental Services (BES) Clean River Rewards Stormwater Discount Program.

1. Applicability

A ratepayer who controls and manages the quality and quantity of stormwater runoff from impervious surfaces on the ratepayer's property may receive discounts on the eligible component of the total stormwater management user charge. Discount amounts are based on providing onsite stormwater management as described in these administrative rules and in Clean River Rewards Program materials.

2. Purpose

The Clean River Rewards Stormwater Discount Program provides an opportunity for ratepayers to reduce their stormwater management user charge by safely managing stormwater runoff on their properties.

By promoting private stormwater management, Clean River Rewards also helps to advance the City's environmental commitments and reduce the operating and maintenance demands on public facilities. Clean River Rewards increases the equity and fairness of stormwater management user charges, in part by allowing them to be reduced by ratepayers' management efforts.

3. Definitions

Certain terms used in these rules are defined in Portland City Code (PCC) Chapters [17.04](#) and [17.36](#), the City's [Stormwater Management Manual \(SWMM\)](#) (Portland Policy Document (PPD) Item ENB-4.01), and by the following:

- A. **"Active Utility Account"** means the account to which the City bills charges for stormwater management services and that is active on the date the City processes a registration for Clean River Rewards.
- B. **"Facial Challenge"** means a challenge to a requirement that is based on an argument that the requirement cannot be applied fairly or reasonably in any situation. By contrast, an as-applied challenge is one based on an argument that a requirement should not be applied to the challenger's particular situation because of factors that, in the challenger's view, distinguish it from similar situations.
- C. **"Impervious Surface"** See [PCC 17.36.020](#) (Definitions).
- D. **"Maximum Discount Amount"** means the greatest possible stormwater management discount for the portion of stormwater utility costs allocated to stormwater runoff from private property, as determined by the annual rate ordinance, Binding City Policy [ENB-4.20](#). The maximum discount amount is 35% of the total stormwater user charge.
- E. **"Ratepayer"** See [PCC 17.36.020](#) (Definitions).
- F. **"Stormwater Billable Area"** See [PCC 17.36.020](#) (Definitions).



4. Regulatory Authority

These rules are authorized by PCC [3.13.040](#) and [PCC 17.36.050](#) B.4.

5. Eligibility Requirements

A ratepayer must comply with all of the following eligibility requirements to receive and retain Clean River Rewards:

A. Active Utility Account Required.

An active utility account is required. Once granted, the discount award applies to the active utility account identified on the Clean River Rewards registration form. Subsequent ratepayers at the property must register to receive Clean River Rewards. Discounts do not transfer automatically to subsequent ratepayers.

B. Ratepayers Must Register.

1. A ratepayer must register and provide BES with property and stormwater management information in the registration.
2. The ratepayer's registration must accurately describe the property's private stormwater management facilities as they exist on the date the discount registration was filed with BES.
3. The ratepayer or their personal representative must notify BES of any changes that would alter the ratepayer's discount registration.
4. The discount will begin with the billing cycle in effect when a completed discount registration is received and processed by BES.
5. Registration Review: BES may periodically perform site visits or desk audits to confirm the accuracy of Clean River Rewards registration information and compliance with eligibility requirements. The ratepayer may be required to submit additional information or a new registration at the time of registration review.
6. BES will give notice of the outcome of a registration review within 20 working days. If a registration cannot be verified within 20 working days, the applicant will be contacted to request additional information or schedule an inspection. The notice will contain specific findings, recommendations and remedies, a description of the process for requesting administrative review of the findings, and the deadline for filing a request for administrative review.

C. Stormwater Management Required.

1. A site must have one or more of the following stormwater management features:
 - a) Stormwater management facilities that are properly located and sized per requirements and standards in the SWMM.



- b) Stormwater management facilities implemented as a retrofit or in place before the July 1, 1999, effective date of the SWMM, provided those facilities are deemed safe and effective by BES. Facilities that fall under this requirement include but are not limited to existing drywells, downspout disconnections, and small rain gardens.
 - c) Trees contributing to the discount must be on private property and not located in the public right-of-way or a City easement. The tree portion of the discount is based on either the total number of trees that are at least 15 feet tall or the total square footage of tree canopy.
2. Operations and Maintenance: Stormwater facilities and facility components must be properly maintained and operational per requirements in the SWMM. Stormwater facility operations and maintenance are regulated under the Maintenance Inspection Program Administrative Rules ([PPD item ENB-4.31](#)).

D. Compliance with other regulatory programs.

1. The Director may determine that a ratepayer or property is ineligible for Clean River Rewards based on outstanding or unresolved stormwater compliance issues associated with federal, state, or City stormwater discharge requirements. City stormwater discharge requirements are found in PCC Chapter [17.39](#).

E. Access to the Property.

City staff may enter upon a ratepayer's property to the extent allowed by law for the purposes of administering the Clean River Rewards Program. City staff will produce proper identification and gain consent to access the property requesting the Clean River Rewards discount. Site visits or inspections will occur at a date and time that is mutually acceptable to both the City and the ratepayer.

The purpose of such entry is to:

- 1. Determine eligibility.
- 2. Provide technical assistance.
- 3. Determine accuracy of the registration form.
- 4. Periodically review registration information.

6. Calculating Discount Awards

Discount calculators and details for safely managing stormwater runoff are published on the Clean River Rewards program website.

- A. Clean River Rewards discounts are limited to the maximum discount amount. BES will calculate discounts based on:
- 1. The extent of private efforts to manage stormwater runoff from the stormwater billable areas on the property; and
 - 2. The presence of eligible trees or tree canopy.



- B. A full discount may be available when all stormwater runoff from a property's stormwater billable area is managed according to the standards and requirements in the SWMM. A proportional discount may be available when stormwater runoff from a portion of a property's stormwater billable area is managed according to the standards and requirements in the SWMM.
- C. A full or partial discount may also be applied, at the discretion of the City, when stormwater runoff from all or a portion of a property's billable area is managed with retrofit projects that are not subject to SWMM development review.

7. Violations

A. Violation of program requirements.

Any failure to comply with these rules will constitute a violation of these rules, as will a denial of access to a property and a falsification of information on a registration form or in other Clean River Rewards-related communication to the City.

B. Enforcement Tools.

The City will attempt to resolve violations of eligibility requirements with written notification and technical assistance.

The City may exercise the following enforcement actions when a violation has not been corrected to the satisfaction of the City:

1. **Suspension.** The City may suspend discount awards until a site inspection or desk audit is performed and it is determined that the site complies with eligibility requirements.
2. **Discontinue discount.** The City will discontinue discount awards when a property no longer meets the Clean River Rewards eligibility requirements or if access to the property is denied.
3. **Reversal of discount.** The City may recoup a discount via a reversal on the utility bill if the ratepayer has failed to comply with program requirements.
4. **Collections and administrative fees.** PCC Chapter [17.36](#) authorizes BES to recoup Clean River Rewards and to charge administrative fees. Fees can be charged as part of a Clean River Rewards enforcement action. Fees are published in the annual rate ordinance, Binding City Policy [ENB-4.20](#), and are based on the City's cost recovery principles.



8. Administrative Review and Appeal

A person may request reconsideration of a BES decision through administrative review as described in this Section. After the requestor has exhausted all BES administrative review, the requestor may file for an appeal of a decision with the Code Hearings Officer (CHO) per Portland City Code [Title 22](#). A person may only appeal a decision that is subject to administrative review by BES.

- A. **Administrative Review Requests.** A person to whom a notice was addressed will have 20 business days from the date the notice was issued to submit a written request for administrative review of a decision described in the notice. The requestor must provide all information known to the requestor that supports an assertion made in the written request for administrative review. The requestor must provide such information via graphic, written, or recorded communication, or in person at the administrative review meeting. BES will hold an administrative review meeting within 15 business days of receipt of the written request for administrative review unless BES determines in its reasonable discretion that a delay is justified. The requestor may provide detailed information in writing in lieu of attending the administrative review meeting.
- B. **Non-Reviewable Items.** A BES decision made under these rules is subject to administrative review except that BES will not grant administrative review of any of the following:
 - 1. A Facial Challenge – as that term is defined in these rules – to a requirement in these rules or associated City Code, or to any technical standard.
 - 2. BES’s authority to recover costs, issue associated administrative fees, or reverse accounts for a violation of these rules or of associated City Code provisions.
 - 3. The maximum discount amount or its basis.
 - 4. Eligibility requirements of these rules.
- C. **BES Evaluation.** BES will use authorizing City Code provisions, these rules, City records, and the testimony and documentation provided by the requestor to make a final determination on the issue that is the subject of the administrative review.
- D. **Final Determination.** BES will issue to the requestor a written determination within 15 business days of the administrative review meeting unless BES determines that extenuating circumstances justify a reasonably longer period of evaluation. The written final determination will provide information about the process for filing an appeal to the CHO.

